IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

Crl.MC.No. 2100 of 2007()

CC.111/2007 OF JUDICIAL FIRST CLASS MAGISTRATE COURT -PERINTHALMANNA

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PETITIONER: ACCUSED

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1. HAMZA T., S/O. LATE ABU, AGED 39 YRS,
THOTTIYIL HOUSE, PUZHAKKATTIRI P.O.,
PUZHAKKATTIRI AMSOM & DESOM, MALAPPURAM DISTRICT.

2. KUNJACHU, W/O. LATE ABU, AGED 60 YEARS,
THOTTIYIL HOUSE, PUZHAKKATTIRI P.O.,
PUZHAKKATTIRI AMSOM & DESOM, MALAPPURAM DISTRICT.

3. SULIKHA, AGED 47 YEARS, W/O. MUHAMMED,
KORATH HOUSE, KADUKKAPURAM P.O.,
KULATHUPUZHA POLICE STATION LIMIT.

4. HAMZA MOULAVI, AGED 60 YEARS,
S/O. LATE KUNJALU, RESIDING AT THOTTIYIL HOUSE,
PUZHAKKATTIRI AMSOM, DESOM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON
SMT.S.SMITHA (PARAKKAL)

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SANIYA HAMZA, W/O. HAMZA T.,
URUNIYAN HOUSE, VADAKKEKARA P.O.,
PERINTHALMANNA TALUK, MALAPPURAM DISTRICT.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB FOR R1
SRI.M.SHAJU PURUSHOTHAMAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No.2100 of 2007

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Dated this the 23rd day of July, 2007

ORDER

The petitioners face indictment in a prosecution for the offence punishable under Section 498A I.P.C. They are the husband and relatives of the husband of the defacto complainant, the second respondent herein. The crux of the allegations is that the petitioners were guilty of matrimonial cruelty against the second respondent. Cognizance has been taken. Final report has been submitted by the Police after due investigation. The petitioners and the second respondent have now come before this court with a prayer that the prosecution against the petitioners may now be quashed invoking the powers under Section 482 Cr.P.C. The parties have settled their disputes amicably. The spouses have resumed cohabitation and are residing harmoniously. In these circumstances, the unnecessary continuance of the criminal prosecution against the petitioners is an avoidable irritant in their relationship.

2. A joint statement has been filed by the petitioners and the 2nd respondent to apprise the Court of the settlement of the dispute and the willingness of the 2nd respondent to compound the offences allegedly committed by the petitioners. I am satisfied from the

statements made at the Bar, from the joint statement filed by the parties and also the averments in the petition that the disputes have been settled between the parties. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be directed.

3. However, the offence under Section 498A I.P.C is not compoundable under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that notwithstanding the provisions of Section 320 Cr.P.C, the powers under Section 482 Cr.P.C can be invoked to bring about premature termination of such prosecution.

4. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked to bring to premature termination the proceedings against the petitioners initiated by the second respondent.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.111/2007 against the petitioners pending before the Judicial First Class Magistrate Court, Perinthalmanna shall stand quashed.

6.Hand over a copy of this order to the learned counsel for the petitioners.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE